

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JANE DOES I, II, III, et al.,)
Plaintiffs,)
v.) Civil Action No. 3:20-1260
EUGENE SCALIA, United States) (JUDGE MANNION)
Secretary of Labor, et al.,)
Defendants.)

DECLARATION OF LOREN E. SWEATT

I, Loren E. Sweatt, am the Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health. I possess personal knowledge of the matters set forth in this declaration and am competent to testify to the same.

Coronavirus Disease 2019 Outbreak and OSHA's Response

1. At the end of December 2019, OSHA began monitoring an uptick in unidentified pneumonia-like illnesses being reported in China.
2. As it became apparent in January 2020 that a novel coronavirus had emerged in Wuhan, China, OSHA immediately set to

action as part of a concerted whole-of-government approach to addressing the emerging pandemic.

3. Also in January 2020, OSHA began coordinating with sister agencies across the federal government and launched a dedicated website about the coronavirus to readily publish and distribute critical information about the coronavirus for workers, employers, and the general public.

4. OSHA has developed a broad arsenal of guidance materials, including very detailed elaborations of recommended mitigation measures, shorter alerts, news releases, posters, and videos addressing Coronavirus Disease 2019 (COVID-19) related health and safety issues. These guidance materials incorporate the fundamental hierarchy of controls applicable to occupational safety and health and are designed to be flexible and responsive in light of the rapidly changing circumstances at workplaces across the country, as well as the evolving understanding of the virus. *See generally* OSHA, Safety and Health Topics Page (SHTP) COVID-19, News and Updates, https://www.osha.gov/SLTC/covid-19/news_updates.html.

5. OSHA has continued to produce and disseminate dozens of alerts, guidance documents, enforcement memoranda, news releases, and other educational tools. OSHA has also issued a series of alerts providing targeted guidance on practices and procedures to protect workers in numerous specific industries.

6. OSHA has issued joint guidance with the Centers for Disease Control and Prevention (CDC) specifically tailored to several industries, including Meat and Poultry Processing Workers and Employers, issued on April 26, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>, Manufacturing Workers and Employers, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-manufacturing-workers-employers.html>, and Agriculture Workers and Employers, <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-agricultural-workers.html>. These document discuss the specific COVID-19 exposure risks present in these industries and identifies the steps employers should take to protect workers.

7. To date, OSHA has issued specific guidance for employers in meat and poultry processing, healthcare, nursing homes, restaurants (including curbside pickup), dentistry, retail, construction, pharmacies, rideshare services, mortuary services, emergency responders, laboratories, border protection and transportation security, solid waste and wastewater management, environmental services, in-home repair services, package delivery, and manufacturing, among others, some of which has been translated into Spanish.

8. On April 28, 2020, the Department issued a statement of Enforcement Policy regarding Meat and Poultry Processing Facilities in response to President Trump's invocation of the Defense Production Act informing employers in that industry that they must seek to adhere to the Joint Meatpacking Guidance OSHA issued with the CDC.

<https://www.dol.gov/newsroom/releases/osh/a/osh/2020/04/28-1>. The statement, which addresses guidance and enforcement actions regarding worker safety at meat, pork and poultry processing facilities, provides clarity for businesses whose continued operation will be critical to America's food supply.

9. To date, OSHA has released nine safety videos addressing important safe-work practices in both English and Spanish and developed employment-based posters demonstrating the seven steps for properly wearing a respirator.

10. On April 13, 2020, OSHA issued an interim enforcement response plan (Enforcement Plan), outlining OSHA's COVID-19 enforcement approach. OSHA, Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19), <https://www.osha.gov/memos/2020-04-13/interim-enforcement-response-plan-coronavirus-disease-2019-covid-19>. The Enforcement Plan prioritized for inspection complaints and referrals from establishments at high risk for COVID-19 exposure, including healthcare and emergency response, as well as reports of fatalities and imminent danger exposures related to COVID-19. It discusses applicable OSHA standards, including standards governing respiratory protection, PPE, eye and face protection, and sanitation, as well as the general duty clause.

11. On May 19, 2020, OSHA issued an updated interim enforcement response plan (Updated Enforcement Plan), which became

effective on May 26, 2020. OSHA, Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19), <https://www.osha.gov/memos/2020-05-19/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19>. It maintains many of the policies of the earlier plan, including general prioritization of COVID-19 inspections, but reflects a return to normal inspection procedure in areas of decreased community spread, to ensure all workplaces receive appropriate inspection coverage.

COVID-19-related Investigations and Enforcement

12. OSHA has worked tirelessly to ensure its enforcement program prioritizes COVID-19-related hazards. OSHA—together with countless federal, state, and local authorities—is addressing COVID-19 in a rigorous and comprehensive manner, with more time, energy, and resources devoted to this public health threat than any other in the agency's history.

13. As of July 27, 2020, OSHA has conducted over 7,300 investigations into COVID-19 related complaints, initiated over 740 workplace inspections, and issued one citation. OSHA, COVID-19

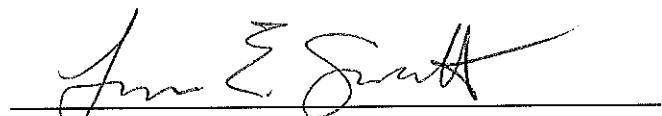
Response Summary, <https://www.osha.gov/enforcement/covid-19-data> (last accessed July 28, 2020).

Investigator Training

14. OSHA provides extensive training on workplace safety to all of its investigators. OSHA has specifically trained its investigators regarding the respiratory protection, PPE, and sanitation standards and their applicability to COVID-19. OSHA keeps its investigators, along with their supervisors and colleagues, updated on any new information regarding the virus and recommended precautions for workplaces to protect employees against the hazard.

15. Through their training and through conducting hundreds of inspections, OSHA's inspectors and their supervisors have developed specialized expertise in evaluating workplace hazards, including the existence of imminent dangers.

I declare pursuant to 28 U.S.C. §1746 under penalty of perjury
that the foregoing is true and correct. Executed on this 28 day of
July, 2020 at Washington, D.C.



Loren E. Sweatt
Principal Deputy Assistant Secretary of
Labor
for Occupational Safety and Health
U.S. Department of Labor